United Nations

AT

Administrative Tribunal

Distr.
LIMITED

AT/DEC/879
31 July 1998

ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 879

Case No. 983: KARMEL

Against: The Secretary-General of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Ms. Deborah Taylor Ashford, Vice-President, presiding; Mr. Julio Barboza; Mr. Chittharanjan Felix Amerasinghe;

Whereas at the request of Lois Karmel, a staff member of the United Nations Children's Fund (hereinafter referred to as UNICEF), the President of the Tribunal, with the agreement of the Respondent, extended to 31 July 1997, the time-limit for the filing of an application to the Tribunal;

Whereas, on 22 July 1997, the Applicant filed an application requesting the Tribunal, inter alia:

"...

(a) *To rescind* the decision of the Secretary-General not to accept the recommendation of the Joint Appeals Board awarding the Applicant damages for the unfair treatment she has received and directing that she be placed in a suitable post;

(b) *To find and rule* that the decision of the Respondent to abolish the Applicant's post and not to place the Applicant in her former job or in another permanent core post at the G-5 level in spite of numerous vacancies was motivated by prejudice and procedurally flawed;



BEST COPY AVAILABLE

...

(e) *To order* that the Applicant be given full and fair consideration at the earliest opportunity for placement in a permanent, G-5 or higher level post;

(f) *To award* the Applicant appropriate compensation in the amount of three years' net base pay for the actual, consequential and moral damages suffered by the Applicant as a result of the Respondent's actions or lack thereof;

(g) *To award* the Applicant as cost, the sum of $7,500.00 in legal fees and $500.00 in expenses and disbursements."

Whereas the Respondent filed his answer on 30 March 1998;

Whereas the Applicant filed written observations on 23 April 1998;

Whereas, on 2 July 1998, the Tribunal ruled that no oral proceedings would be held in the case;

Whereas, on 7 July 1998, the Tribunal put questions to the Respondent and requested that he produce documents, which he did on 10 July 1998;

Whereas the Applicant submitted additional documents on 16 July 1998;

Whereas the facts in the case are as follows:

The Applicant entered the service of UNICEF on 12 December 1973, on a three-month fixed-term appointment, as a Clerk/Typist, at the G-2 level. After serving on a further three-month fixed-term appointment as Bilingual Clerk/Typist, at the G-3 level, the Applicant was granted a probationary appointment, with effect from 1 April 1974. This appointment was converted to a permanent appointment on 1 December 1975. On 1 January 1977, the Applicant was promoted to the G-4 level. On 20 April 1980, she was transferred to the post of Secretary, Programme Division, Asia Section. On 16 March 1992, the Applicant was promoted to the G-5 level and her title changed to Principal Secretary.

On 26 January 1996, the Director, UNICEF Programme Division, informed the Applicant that the post that she encumbered, as Principal Secretary, had been slated for abolition. If the recommendation to abolish the post was accepted, her appointment would be terminated on 31 July 1996, unless the Administration could place her in another position. The notice period of termination was exceptionally extended until 31 August 1996, in the light of the Applicant's long service with UNICEF.

On 12 August 1996, the Applicant requested the Secretary-General to review the administrative decision to terminate her permanent appointment. She also requested a suspension of action of that decision. On 19 August 1996, in proceedings before the Joint Appeals Board (JAB), the Administration proposed to extend the Applicant's appointment for two months and place the Applicant in a vacant G-4 post.

On 22 August 1996, the JAB adopted its report on the request for suspension. Its conclusions and recommendation read as follows:

"Conclusions and recommendation

18. The Panel took note of the above mentioned UNICEF proposal and of the Appellant's consent to it. The Panel expressed its appreciation for the solution arrived at by UNICEF. The Panel would appreciate if during that period UNICEF were able to find a permanent solution to the Appellant's situation and keep her on board.

19. The Panel felt that since both parties have shown good will in making efforts to solve this case, there was no need at this stage to bring it before the Panel.

20. In view of the above, the Panel decided to make no recommendation on the request for suspension of action."

On 3 September 1996, the Applicant was transferred to the post of Help Desk Clerk at the G-5 level.

On 19 September 1996, the Under-Secretary-General for Administration and

Management informed the Applicant that, in the light of the recommendation of the JAB, the Secretary-General had decided not to grant her request for suspension of action.

On 17 October 1996, the Applicant requested the Secretary-General to review the decision to terminate her permanent appointment with effect from 31 October 1996. She also requested a suspension of action. The JAB adopted its report on 30 October 1996. Its considerations read, inter alia, as follows:

> "Considerations
>
> ...
>
> 27. ... the Panel unanimously recommends that the above-mentioned request for suspension of action be granted and that nothing be done by the Administration to implement the decision to separate the Appellant from service effective 31 October 1996 until the case has been heard on its merits and a decision has been made by the Secretary-General on the appeal."

On 31 October 1996, the Under-Secretary-General for Administration and Management informed the Applicant as follows:

> "The Secretary-General has decided to accept the Panel's unanimous recommendation that action to separate you from service effective 31 October 1996 be suspended and to postpone until 20 December 1996 the termination date of your appointment, thus enabling the Joint Appeals Board to consider and provide a recommendation to him on the merits of your appeal. The Secretary-General waives his right to reply to your request for administrative review, allowing you to submit your appeal to the Board. In order for the Board to submit a report prior to your new termination date, it is anticipated that you will file your appeal with the Board by 15 November, that the Respondent will reply 10 days after receipt of a copy of your appeal, that you will be able to submit observations within 7 days after receipt of the Respondent's comments and that the Board will submit its recommendation to the Secretary-General by 13 December 1996."

On 1 November 1996, the Applicant was temporarily assigned to the post of Administrative Clerk.

On 13 November 1996, the Applicant lodged an appeal before the JAB.

The JAB adopted its report on 16 December 1996. Its considerations, conclusion and recommendations read, in part, as follows:

"Considerations

...

24. The Panel examined the record before it and, in particular, the documents attached by the parties, providing information on the available posts and the way staff members were considered for them. The Panel noted that, in addition to staff members with a permanent appointment, the Appellant had to compete against staff members on fixed-term appointments and project personnel.

...

26. The Panel ... felt that the Organization did not act in good faith in its efforts to place the Appellant. The Panel gained the impression that UNICEF merely went through the motions of fulfilling its legal responsibilities, but did not in fact seriously and energetically try to find a proper position for the Appellant. Bearing in mind that the Organization had suitable posts available, of which the Appellant['s] services at the G-4/G-5 level could be effectively utilized, the Panel felt that instead of fulfilling its obligations under Chapter IX, the Organization had in this case applied a policy appropriate for competitive examination or for recruitment, a policy totally inappropriate in the present case.

27. The Panel noted the Respondent's explanation that the Appellant's right to be given preference under this rule 'could not be applied when compared with the skills and competence of other candidates, for which the APC had due regard in all cases, and therefore, she was not found to be the most competent candidate'. The Panel disagrees with the above statement. The Panel felt that, in the light of Judgement No. 679, Fagan, preference under staff rule 109.1(c) must be the determining factor.

...

28. In addition, the Panel did not find the Respondent's explanation referred to in the paragraph above to be compatible with the Respondent's statement of 19 August 1996 before the JAB Panel, considering the Appellant's request for suspension of action. [The] Respondent then stated that '[t]he Appellant specifically requested a

suspension of action of her separation based on her statement that she is a permanent staff member with almost 23 years of service who has given the best of her occupational life to UNICEF, and her work performance met all the requirements. This is not in dispute'. (Emphasis added).

29. The Panel considered that the Appellant, together with other staff members holding a permanent appointment whose posts were abolished, should have been placed against the vacant posts that were available for which their services can be effectively used. The Panel considered that a selection process from among staff members holding permanent appointments could take place only in situations where the number of available posts was smaller than the number of the staff members concerned. Staff members on fixed-term and other non-permanent appointment and others should be considered only after the situation with permanent staff had been resolved.

30. The Panel noted that while awaiting the Secretary-General's decision on her case, the Appellant was placed against a post at her level, for which she was suitable. The Panel saw no reason why the Appellant should be removed from that post.

31. In light of the above and in particular of UNICEF's selection process, the Panel felt that the decision to terminate the Appellant's appointment was taken not because of the necessity of the Organization to reduce staff, but because UNICEF did not want the Appellant to remain in service. Consequently, the Panel considered that the decision in question was affected by extraneous motives and therefore violated the Appellant's rights. The Panel noted that Chapter IX of the Staff Regulations provided a procedure for termination of appointment due to unsatisfactory performance, and that UNICEF did not utilize this procedure in this case.

Conclusion and Recommendations

32. The Panel recommends that UNICEF find, without further delay, a suitable post for the Appellant, where she will be able to utilize her skills and the experience she gained in the Organization. No action should be taken to terminate the Appellant's permanent appointment.

33. Having concluded that the Appellant was unfairly treated in connection with the termination of her permanent appointment, the Panel further recommends that the Appellant be paid the equivalent of three months' net base salary."

On 20 December 1996, the UNICEF Deputy Executive Director informed the Applicant that the Executive Director had decided "not to take action to terminate your permanent appointment, and that you will be appointed to a post by executive decision."

On 23 December 1996, the Under-Secretary-General for Administration and Management transmitted to the Applicant a copy of the JAB report and informed her as follows:

> "The Secretary-General has examined your case in the light of the Board's report. The Secretary-General has been pleased to receive information from UNICEF to the effect that the Executive Director has decided not to take action to terminate your permanent appointment. In light of this decision, the object of your appeal is now moot. The Secretary-General also considers that, given the good efforts made by UNICEF to find you another posting, the granting to you of an amount equivalent to three months net base salary is not warranted."

On 20 January 1997, the UNICEF Personnel Officer informed the Applicant that she had been transferred to a project-funded post in the UNICEF Division of Communication with effect from 7 January 1997, allowing her to retain her G-5 level and permanent status, although the post was classified at the G-4 level.

On 22 July 1997, the Applicant filed with the Tribunal the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. The decision to abolish the Applicant's core post was in violation of the letter and spirit of UN staff regulation 9.1(a).

2. The Respondent has failed to apply in good faith the established policies for placement of staff in abolished posts with respect to the Applicant.

Whereas the Respondent's principal contentions are:

1. The Organization had taken steps with respect to the Applicant which actively

demonstrated its good faith. The Applicant has adduced no evidence of discriminatory treatment.

2. The Applicant's appointment was not terminated and a suitable alternative post was found for her.

The Tribunal, having deliberated from 7 to 31 July 1998, now pronounces the following judgement.

I. The Applicant alleges (a) that her post was not in fact abolished, since nearly all of its defining functions were passed on to a newly created post, to which someone else was appointed without any advertisement or open competition, and (b) that the Administration did not make a good faith effort to find the Applicant a new position equivalent to her abolished post.

II. If the Applicant's first claim is correct, the Tribunal would not need to consider her second claim. The Tribunal is of the view that it need not address the issue of whether or not the Administration made a reasonable effort to secure for the Applicant a post equivalent to the one formerly encumbered by her, from among the numerous vacancies for which the Applicant applied. It is sufficient that the Tribunal has determined that the post she originally encumbered was not in fact abolished, that she was deviously and unjustly removed from it, and therefore, that the Applicant was improperly separated from the position she encumbered.

III. Moreover, although the Applicant has finally been placed against a post which seems to be equivalent to the one she originally encumbered, the post is of fixed duration. In response to questions put by the Tribunal during its deliberations, the Respondent stated as follows:

"The Applicant is a Senior Secretary in the Division of Human Resources (DHR).

(a) The Applicant encumbers post 92020 of Senior Secretary.
(b) The grade of the post is GS-5. The Applicant's personal grade level is GS-5.
(c) The Applicant's post is of fixed duration, however, the Applicant was informed in writing that she maintains her permanent status."

The Tribunal finds that placing the Applicant in "a post of fixed duration" is not an adequate solution because she should be placed in a permanent position.

IV. But that does not, of course, close the case. The Applicant was obviously the victim of a serious wrong committed by the Administration when her post was abolished without any justification. In this case, the Applicant's post was abolished, and a practically equivalent post was created, with a different name and a slightly different job description at one grade lower in the hierarchy. The Applicant could not apply for the newly created post because she was at the G-5 level. Without advertisement or open competition, another staff member who had been placed against the post was appointed to that "new" post. A year later, the post was upgraded to G-5. The Tribunal can only conclude that the Applicant's post was not abolished and that the process just described constituted a subterfuge for removing the Applicant and replacing her with another staff member.

V. Unfortunately, the manipulations to which the Applicant was subject are becoming a habit in the UN Administration. The Tribunal notes that by this simple device, some staff members are dismissed and others are placed in their stead. It seems to be of no importance if, at the end of the process, the Organization has to pay compensation to the person unjustly removed. The Tribunal is not aware whether any action is taken against those responsible for such elementary exercise in deviousness. The Tribunal, more than once, has come across situations like the one just described. (Cf. Judgements No. 679, Fagan, para. XIII (1994) and No. 890, Ossolo, para. V (1998)).

VI. It appears that the only way that the Administration could remove the Applicant from her position was to abolish her post. In further response to questions put by the Tribunal during its deliberations, the Respondent stated that:

> "In accordance with UNICEF procedures, staff on abolished posts are automatically placed against posts at their own level, for which the Organization considers them to have the requisite qualifications."

That was not precisely the case of the Applicant. The JAB found as follows:

> "The Panel, after reading the material before it, felt that the Organization did not act in good faith in its efforts to place the Appellant. The Panel gained the impression that UNICEF merely went through the motions of fulfilling its legal responsibilities, but did not in fact seriously and energetically try to find a proper position for the Appellant."

VII. It was only after the JAB recommended that "UNICEF find, without further delay, a suitable post for the Appellant" and that "three months' net base salary" should be paid to her as an indemnity, that a new job was found for her. And only then did the Administration decide that "given the good efforts made by UNICEF to find you another posting, the granting to you of an amount equivalent to three months net base salary is not warranted." So, the case was, in the opinion of the Administration, moot.

VIII. The Tribunal, however, does not consider that the case is moot. The Applicant was subjected to a rather long and frustrating process of applying for 34 different posts, without support from the Administration. The Applicant should be compensated for the anguish of not knowing whether she was going to be separated from the Organization; the humiliation of not receiving any permanent post for which she applied; and the stress to which she was subjected by the conduct of the Administration.

IX. Accordingly, the Tribunal orders:

(1) That the Applicant be placed in a permanent post, equivalent to the one she encumbered before the artificial abolition of her own, within 12 months of the date of communication of this judgement;

(2) That, should the Respondent decide that, in the interest of the United Nations, the Applicant should be compensated without further action being taken in her case, in accordance with article 9, paragraph 1 of the Tribunal's Statute, the amount of compensation to be paid to the Applicant, in lieu of the specific performance ordered. be fixed at 15 months of her net base salary at the rate in effect on the date of payment; and

(3) That, in addition to the orders specified in (1) and (2) above, compensation be awarded to her in the amount of nine months of her net base salary at the rate in effect on the date of this judgement.

X. The Tribunal rejects all other pleas.

(Signatures)

Deborah Taylor ASHFORD
Vice-President, presiding

Julio BARBOZA
Member

Chittharanjan Felix AMERASINGHE
Member

Geneva, 31 July 1998

R. Maria VICIEN MILBURN
Executive Secretary

United Nations

AT

Administrative Tribunal

Distr.
LIMITED

AT/DEC/880
31 July 1998

ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 880

Case No. 986: MACMILLAN-NIHLÉN

Against: The Secretary-General of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Ms. Deborah Taylor Ashford, Vice-President, presiding; Mr. Chittharanjan Felix Amerasinghe; Mr. Kevin Haugh;

Whereas, at the request of Maryrose MacMillan-Nihlén, a former staff member of the United Nations, the President of the Tribunal, with the agreement of the Respondent, successively extended to 31 August and 30 November 1996, 28 February, 31 May, and 31 August 1997, the time-limit for the filing of an application with the Tribunal;

Whereas, on 29 August 1997, the Applicant filed an application requesting the Tribunal, inter alia, as follows:

"...

2. ... to order the Respondent to compensate her ... by payment of the sum of US$20,000 based on the difference in salary and benefits that would have been payable had her post been reclassified at [the] G-7 level with effect from 1 December 1991; and by payment of the additional sum of US$5,000 for the material loss she suffered ..."

Whereas the Respondent filed his answer on 13 February 1998;

99-00171

BEST COPY AVAILABLE

Whereas the Applicant filed written observations on 29 April 1998;

Whereas the facts in the case are as follows:

The Applicant entered the service of the United Nations Office in Geneva in February 1961, as an Administrative Clerk. On 1 October 1962, she transferred to UN Headquarters in New York, where she was granted a short-term appointment as Clerk-Typist, at the GS-2A level, for the duration of the General Assembly.

On 3 October 1972, the Applicant re-entered the service of the UN on a short-term contract for one month, as Clerk-Typist Stenographer, at the GS-3 level. That appointment was extended and converted to a fixed-term appointment on 3 December 1972. She received a permanent appointment on 1 December 1974, and was promoted to Secretary, at the GS-4 level, on 1 April 1975. She was assigned to two peacekeeping missions from 1 January 1977 to 15 February 1979 and 13 May 1979 to 21 July 1983, respectively. Thereafter, the Applicant was placed in a series of temporary posts. The Applicant's post was converted to the GS-5 level, based on new classification standards, with effect from 1 January 1985. On 4 April 1988, the Applicant was appointed as Administrative Assistant, with the Department for Special Political Questions, Regional Co-operation, Decolonization and Trusteeship. The Applicant was promoted to the GS-6 level on 1 October 1988. She separated from service upon retirement, on 31 December 1995.

On 25 September 1991, the job description for the post encumbered by the Applicant at the GS-6 level, was submitted for classification review pursuant to ST/AI/358 dated 31 July 1989. On 30 December 1991, the Applicant was informed that the Compensation and Classification Service (CCS) had confirmed the classification of her post at the GS-6 level. On 10 March 1992, the Applicant appealed this classification decision. On 5 July 1994, the CCS submitted its report, in which it found the classification of the Applicant's post at the GS-6 level to be appropriate, to the New York General Service Classification Appeals and Review Committee (NYGSCARC).

NYGSCARC adopted its report on 3 April 1995. Its findings and recommendation read, in part, as follows:

"**Findings:**

...

16. ... While noting that the assignments of the post encompassed general administrative as well as personnel functions, the Committee observed that 75% of the work was related to personnel administration. In the Committee's view, the general administrative responsibilities of the post as described in Section 2(e) of the job description did not warrant a higher grade.

17. In examining the personnel-related responsibilities of the post, the Committee felt that the duties as described in the job description were comparable to those depicted in the GS-6 Personnel Benchmark. The Committee observed, however, that some of the samples of work submitted by the appellant were indicative of a higher level. ... In the Committee's view, these examples did not conform to the definition of General Service work approved by the International Civil Service Commission. In this regard, the Committee observed that the appellant appeared to have been called upon, in certain instances, to perform higher level functions owing to her personal capabilities and exigencies of the office ... While the Committee was appreciative of the quality of the appellant's contribution to the work of the Executive Office, it concluded that its review was necessarily limited to the specific duties and responsibilities of the post described in Job Description Number NO4997. These, the Committee judged, were compatible with the grade and factor definitions of the Classification Standard at the GS-6 level.

**Recommendation:**

19. Accordingly, the Committee recommends that the post be maintained at the GS-6 level in the Administration related occupation (2.A.12)."

On 3 January 1996, the Assistant Secretary-General, OHRM, transmitted a copy of NYGSCARC's report and informed the Applicant as follows:

"1. As set out in administrative instruction ST/AI/358 of 31 July 1989, after reviewing the materials submitted in conjunction with your appeal, the New York General Service Classification Appeals and Review Committee (NYGSCARC) has submitted its findings and recommendation to me.

2. Based on its review of the job information, the information provided in your memorandum of appeal, and subsequent memoranda dated 22 May 1992, 31 August 1992, 9 August 1994, the analysis provided by the Common System and Compensation Service, and your comments on the CSCS report, the Appeals Committee concluded that the functions of your post were compatible with the grade and factor definitions of the Classification Standard at the GS-6 level. Accordingly, the Committee has recommended to me that the post be maintained at the GS-6 level in the Administration related occupation.

3. I have approved this recommendation, as indicated on the attached classification notice. ..."

On 29 August 1997, the Applicant filed with the Tribunal the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. NYGSCARC erred by limiting its review of the classification of the Applicant's post to the specific duties and responsibilities of her post as set forth in the relevant job description and by failing to consider the actual functions she was performing following her office's restructuring and the high level at which she was performing them.

2. The processing of the Applicant's case by the Administration was unreasonably delayed, denying her the opportunity to pursue alternative means of career development during that time.

Whereas the Respondent's principal contentions are:

1. The Respondent's discretionary decision with regard to the classification level of the Applicant's post was properly taken following an independent review by a specialized

appeals body.

2. Delay in the finalization of the Applicant's classification appeal caused no loss to the Applicant and thus the decision not to reclassify her post did not violate her rights.

The Tribunal, having deliberated from 6 to 31 July 1998, now pronounces the following judgement:

I. The Applicant complains first that there were errors in the classification of her post by the review body after she appealed to the Assistant Secretary-General, Office of Human Resources Management (OHRM), and second, that there was unreasonable delay in the hearing of her appeal as a result of which she suffered material loss.

II. There are two principal issues raised in the case:

(i) Was there a failure on the part of the review body, the New York General Service Classification Appeals and Review Committee (NYGSCARC), to conduct a proper review of the Applicant's post, with the result that her post remained classified at the G-6 level?

(ii) Was there undue delay by the Respondent in communicating his decision on the appeal to the Applicant?

III. It has been clearly established in the jurisprudence of the Tribunal that classification is a discretionary power of the Respondent. (Cf. Judgement No. 541, Ibarria (1991), para. II) Consequently, the Tribunal will not substitute its judgement for that of the Administration. However, the decision to classify a post is subject to review by the Tribunal if such decision constitutes an abuse of discretion. A discretionary decision will be reviewed if there has been a substantive irregularity, such as an error of fact or of law; a procedural irregularity, such as

undue delay; or prejudice, discrimination or other extraneous factors.

IV. The Tribunal will deal first with the issue whether the review by the appeals body resulted in an abuse of discretion. The Applicant contends that, although she provided evidence that she was doing work at a higher level than that of G-6, NYGSCARC classified her post at the G-6 level. The Administration stated, in the report that it prepared for NYGSCARC, pursuant to NYGSCARC's request, that the Administration had taken into account this evidence but nevertheless had maintained the classification. NYGSCARC, in its report dated 3 April 1995, stated that while it "was appreciative of the quality of the appellant's contribution to the work of the Executive Office, it concluded that its review was necessarily limited to the specific duties and responsibilities of the post described in Job Description Number N04997." NYGSCARC thus was fully aware of the additional evidence submitted by her but decided not to include it in its assessment of the classification of her post. In the view of the Tribunal, NYGSCARC acted properly. The Tribunal notes that ST/AI/358 clearly envisages that classification of a post should be based on an established job description. Thus, a review of classification by the appeals body should also be based on the job description established for the position in question. NYGSCARC did not abuse its discretion by determining that the evidence submitted, other than the established job description, was irrelevant to the classification of the post. If the Applicant wanted the additional evidence to be considered as part of her job description, she should have requested that a new job description be prepared for her post, that would have included what she alleged were the additional duties and responsibilities of the job. The establishment of a new job description to include any alleged and additional duties is the responsibility of both the Applicant and the Administration. The Applicant cannot obtain reclassification based on evidence that, on occasion, she was performing higher-level duties than those listed in her job description. The Tribunal concludes that there was no abuse of discretion in this regard by NYGSCARC.

V. As regards the issue of undue delay, the Tribunal notes that there was a lapse of over four years between the initial confirmation on 30 December 1991 to the Applicant of classification and the receipt by the Applicant on 26 January 1996 of the decision by the Assistant Secretary-General, OHRM, rejecting the Applicant's appeal. The Respondent claims that the delay was caused by the Applicant but has presented no evidence that this was the case. The Applicant submitted her appeal on 10 March 1992. The addendum that she submitted, dated 22 May 1992, was sent before action was taken on her appeal. Her response of 31 August 1992 was in reply to a communication by the Compensation and Classification Service. It took about two years, until 20 July 1994, before the Applicant was requested to give her comments on the findings on her appeal, which comments she submitted within less than three weeks. The report of NYGSCARC was issued about eight months later, on 3 April 1995. The Applicant was not informed of the Respondent's decision on her appeal until 26 January 1996, more than nine months later. Any delay, therefore, was almost entirely on the part of the Administration.

VI. The Applicant does not have to show any specific damage resulting from the undue delay. As the Tribunal has held, an inordinate delay "not only adversely affects the administration of justice but on occasions can inflict unnecessary anxiety and suffering to an applicant." (Cf. Judgements No. 353, El Bolkany (1985) and No. 414, Apete (1988)). The delay in this case entitles the Applicant to compensation, which the Tribunal assesses at $3,000.

VII. For the above reasons, the Tribunal:

1. Orders the Respondent to pay to the Applicant compensation in the amount of $3,000.

2. Rejects all other pleas.

(Signatures)

Deborah Taylor ASHFORD
Vice-President, presiding

Chittharanjan Felix AMERASINGHE
Member

Kevin HAUGH
Member

Geneva, 31 July 1998

R. Maria VICIEN MILBURN
Executive Secretary